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11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA
13

14 TICKETMASTER L.L.C., a Virginia
limited liability company,,

15 Plaintiff,

16 vs.

17 THOMAS J. PRIOR, an individual, and
18 USA ENTERTAINMENT, an
unknown business entity formerly sued
19 as DOE No. 1,

20 Defendants.

Case No. CV 07-2535 ABC (JCx)

**STIPULATED PROTECTIVE
ORDER**

[CHANGES MADE BY COURT]

21 To expedite the flow of discovery material, facilitate the prompt
22 resolution of disputes over confidentiality, adequately protect material entitled to be
23 kept confidential, and ensure that protection is afforded only to material so entitled,
24 and based on good cause, it is, pursuant to the Court's authority under F.R.C.P.
25 26(c), and with the consent of the parties, hereby ORDERED:

26 1. **Scope of Order.** This Order is intended to facilitate the parties'
27 production of information and documents as part of voluntary disclosure and in
28

1 response to discovery requests. Nothing in this order is to be construed to expand
2 or limit the parties' discovery obligations. This Order covers the production and
3 use of all Discovery Materials in this action that constitute, contain or disclose, in
4 whole or in part, information which the designating party deems to be "Confidential
5 Information" or "Sensitive Confidential Information." All Documents, Pleadings,
6 and testimony containing Confidential Information or "Sensitive Confidential
7 Information" shall be protected in accordance with the terms of this Order.
8 Although Discovery Materials and Pleadings that quote, summarize, or contain
9 materials entitled to protection may be accorded status as Confidential Information
10 or Sensitive Confidential Information, to the extent feasible these materials shall be
11 prepared in such a manner that the Confidential Information or Sensitive
12 Confidential Information is bound separately from that not entitled to protection.

13 2. **General Definitions.** For purposes of this Order, the following
14 terms have the following meanings:

15 (a) "Document" shall mean and include, without limitation,
16 all materials, electronic information and tangible things defined as broadly as
17 permitted under Federal Rule of Civil Procedure 34.

18 (b) "Discovery Materials" shall mean and include, without
19 limitation, Documents, responses to interrogatories, requests for admissions, or
20 other discovery requests, physical objects, samples, CD-ROMs, tapes, or other
21 items, deposition transcripts and exhibits thereto, and information provided by or
22 on behalf of the Parties or any third party pursuant to subpoena or otherwise created
23 or included in the course of discovery.

24 (c) "Pleadings" shall mean and include, without limitation,
25 all papers, motions, briefs, affidavits, declarations, exhibits, etc., filed with the
26 Court.

27 (d) "Party" or "Parties" shall mean and include the parties to
28 this litigation and their respective current and former officers, employees, agents,

1 affiliates and subsidiaries.

2 (e) "Designating Party" shall mean the Party designating
3 Discovery Material as "Confidential Information" or "Sensitive Confidential
4 Information."

5 3. **Confidential Information Defined.** For purposes of this Order,
6 "Confidential Information" shall mean and include any information (regardless of
7 how it is generated, stored, or maintained), including Documents, Discovery
8 Materials and Pleadings, that contains information within the scope of Federal Rule
9 of Civil Procedure 26(c) or which is a trade secret, proprietary, confidential
10 commercial or business information, or otherwise confidential or private. For
11 certain limited types of "Confidential Information," the producing party may further
12 designate such Confidential Information as "Sensitive Confidential Information," as
13 discussed more fully in Section 4 below. "Confidential Information" shall not
14 include Documents that have been produced before entry of this protective order.

15 4. **Sensitive Confidential Information Defined.** "Sensitive
16 Confidential Information" is information which, if known by the party to whom it is
17 disclosed, would be inherently harmful to the Designating Party's business.
18 "Sensitive Confidential Information" may include the Designating Party's
19 proprietary financial information or reports, to the extent any such information or
20 reports is not relevant to any claim for damages. "Sensitive Confidential
21 Information" may not include any information, testimony or Documents relevant to
22 any Designating Party's damages claims or calculations, or other information
23 ordered by the Court to be disclosed under particular conditions and to specified
24 parties. "Sensitive Confidential Information" shall not include Documents that
25 have been produced before entry of this protective order.

26 5. **Designating Protected Material.** All designations shall be
27 made in good faith by the Designating Party and made at the time of disclosure,
28 production, or tender, provided that the inadvertent failure to so designate does not

1 constitute a waiver of such claim, and a producing party may so designate the
2 information after such information has been produced, with the effect that such
3 information is thereafter subject to the protections of this Order. The designation of
4 Discovery Materials in the form of Documents and Discovery Materials other than
5 depositions or other pretrial testimony as Confidential Information or Sensitive
6 Confidential Information shall be made by the Designating Party in the following
7 manner:

8 (a) Documents designated "Confidential" shall be so marked
9 by affixing the legend "CONFIDENTIAL" or similar confidential designation on
10 each page containing any Confidential Information (or in the case of computer
11 medium on the medium and its label and/or cover) to which the designation applies.

12 (b) Documents designated "Sensitive Confidential" shall be
13 so marked by conspicuously affixing the legend "SENSITIVE CONFIDENTIAL"
14 on each page (or in the case of computer medium on the its label and/or cover) to
15 which the designation applies. Designations of "Sensitive Confidential" shall
16 constitute a representation that such Discovery Material has been reviewed by an
17 attorney for the Designating Party and that there is a valid basis for such
18 designation because the relevant Discovery Material is highly confidential, the
19 disclosure of which is likely to be commercially damaging to the Designating Party.
20 Such information should not be disclosed to any employees of the Party receiving
21 such information, absent Court order, even though employees are bound by this
22 Order and Agreement.

23 (c) If a Document has more than one designation, the more
24 restrictive or higher confidential designation applies.

25 6. **Designation of Deposition Testimony.** All depositions taken
26 in this case and the transcripts thereof shall automatically be treated as Sensitive
27 Confidential Information for 20 days after receipt of the transcript. This 20-day
28 period will begin running the day after the transcript is received by counsel for the

1 party defending the deposition and will conclude at the end of the 20th consecutive
 2 day (including weekends and holidays). Any confidentiality designation must be
 3 sent to opposing counsel by the end of the 20th day. During the deposition or
 4 during this 20-day time period, any Party may designate the deposition or any
 5 portion thereof as Confidential Information or Sensitive Confidential Information.
 6 Upon delivery of such designation to the other Party, the entire deposition transcript
 7 or the designated portion thereof shall be treated as Confidential Information or
 8 Sensitive Confidential Information subject to this Stipulation. If any deposition
 9 transcript or portion thereof has not been designated as Confidential Information or
 10 Sensitive Confidential Information by the expiration of the 20-day period after
 11 receipt of the transcript, that deposition or portion will no longer be Confidential
 12 Information or Sensitive Confidential Information.

13 7. **Basic Disclosure Principles.** Neither the Parties nor their
 14 counsel shall permit disclosure of Confidential Information or Sensitive
 15 Confidential Information to anyone except as provided by this Order, and only after
 16 the conditions stated in this Order have been met.

17 8. **Disclosure of Confidential Information.** Confidential
 18 Information may not be disclosed to any person except:

19 (a) Any Party to this action, including their Information
 20 Technology staff;

21 (b) Counsel for the Parties in this action, including their
 22 paralegals and clerical staff, experts, consultants and in-house counsel;

23 (c) Experts (whether consulting or testimonial) in this action
 24 to whom disclosure is reasonably necessary to the conduct this action, or to
 25 maintain the security of the ticketmaster.com website, provided that experts shall
 26 not have access to Confidential Information or Sensitive Confidential Information
 27 without having first read, acknowledged, and agreed to be bound by this Order by
 28 executing the Declaration attached as Exhibit A;

1 (d) The Court and its personnel;
 2 (e) Court reporters engaged for depositions, hearings or trial;
 3 (f) Witnesses in this action to the extent necessary for the
 4 conduct of this litigation and who have first signed the Agreement to be Bound by
 5 Protective Order attached as Exhibit A;

6 (g) The author(s) or any recipient of the document or the
 7 original source of the information in any document; and

8 (h) Professional vendors that provide litigation support
 9 services (*e.g.*, photocopying, videotaping, translating, preparing exhibits or
 10 demonstrations, etc.) and their employees who have first signed the Agreement to
 11 be Bound by Protective Order attached as Exhibit A.

12 9. **Disclosure of Sensitive Confidential Information.** Sensitive
 13 Confidential Information shall be subject to the same restrictions as Confidential
 14 Information but Sensitive Confidential Information may only be disclosed to the
 15 parties identified in Sections 8(b)-(e) and (g)-(h), above, and 8(f) above to the
 16 extent counsel has a good faith belief that the witness currently has or would be
 17 expected to have knowledge of the contents of the document, or of its subject
 18 matter, and to no one else.

19 10. **Use of Discovery Material.** Confidential Information and
 20 Sensitive Confidential Information produced in this litigation shall be used for
 21 purposes of this action, and to maintain the security of ticketmaster.com. The
 22 persons or entities identified in Sections 8-9, above, to whom Confidential
 23 Information or Sensitive Confidential Information is disclosed pursuant to this
 24 Order shall not make any copies of or use such Confidential Information or
 25 Sensitive Confidential Information for any purpose, whatsoever, except those
 26 related to this action or to maintain the security of ticketmaster.com. Nothing in
 27 this Order shall prohibit any person or entity owning rights in or to Confidential
 28 Information or Sensitive Confidential Information from using such information in

1 any manner consistent with such ownership rights, including, for example, the use
2 of Confidential Information maintained by the Parties in the ordinary course of the
3 Parties' business, though any prohibition or restriction on any such use of such
4 Confidential Information or Sensitive Confidential Information in any previous
5 order of the Court shall continue to govern use of such information. This Order
6 shall not limit the right of any Party to assert any claim in this or any other action.

7 11. **Offering Materials into Evidence.** If in connection with any
8 motion or other proceeding in this action or Related Actions, any Party intends to
9 offer into evidence, reference, or attach as exhibits to any Pleading any Documents
10 or other materials that would reveal or tend to reveal Confidential Information or
11 Sensitive Confidential Information, such evidence shall be redacted to remove all
12 Confidential Information or Sensitive Confidential Information that is not
13 reasonably necessary for the Court to understand the purpose of the Document as
14 described in the Pleading and to effect the reasonable purpose of the offering party
15 in submitting the document.

16 12. **Filing of Materials Containing Confidential Information.**
17 When a Party intends to file with the Court, or otherwise introduce into evidence,
18 any Documents, testimony, or any other material containing Confidential
19 Information or Sensitive Confidential Information that cannot be redacted pursuant
20 to Section 11, above, counsel for the filing or offering party shall notify counsel for
21 the Designating Party of such intent. Such notifications shall be made within a
22 reasonable time not less than two business days before filing, such that the
23 Designating Party has an opportunity to object to the necessity of the disclosure of
24 the Document as presented and to work out an acceptable alternative to the
25 proposed disclosure. The parties shall endeavor to reach agreement on any
26 redactions or other methods which may be available to permit the filing or
27 introduction of the Confidential Information or Sensitive Confidential Information
28 with the Court such that the evidentiary objectives of the offering party can be met

1 without disclosure of Confidential Information or Sensitive Confidential
2 Information.

3 13. **Filing Under Seal.** Any Confidential Information or Sensitive
4 Confidential Information filed with the Court shall be submitted for filing under
5 seal in accordance with the provisions of Local Rule 79-5.1 and in addition shall be
6 submitted in a sealed envelope bearing the designation "Confidential: Subject to
7 Protective Order."

8 14. **Right To Redact.** Notwithstanding the right to designate
9 information as Confidential or Sensitive Confidential, the Parties may redact from
10 Discovery Material information that would qualify as Sensitive Confidential
11 Information under this Order, but which is irrelevant or otherwise not responsive to
12 the discovery request giving rise to production of the Discovery Material, subject to
13 paragraph 18 below.

14 15. **Duration.** This Order shall continue to be binding throughout
15 and after the conclusion of this action, including any appeal thereof. This Order, as
16 an Agreement, shall remain in effect until all Confidential Information or Sensitive
17 Confidential Information is returned to the Designating Party or destroyed, as
18 provided below. Within thirty (30) days after termination of this Action by
19 dismissal, final non-appealable judgment or otherwise, each Party shall return to
20 counsel for the Designating Party all information designated Confidential
21 Information or Sensitive Confidential Information under this Order, including all
22 copies, prints, excerpts, and other reproductions of said information, however
23 generated or maintained. In the alternative, counsel receiving Confidential
24 Information or Sensitive Confidential Information may supervise the destruction of
25 all Confidential Information or Sensitive Confidential Information, including all
26 copies, prints, excerpts, and other reproductions of said information, however
27 generated or maintained. Counsel shall then advise all parties' counsel in writing
28 that all Confidential Information or Sensitive Confidential Information, including

1 all copies, prints, excerpts, and other reproductions of said information, however
2 generated or maintained, have been destroyed or returned.

3 16. **Limiting Disclosure.** All reasonable efforts shall be made by
4 counsel of record to limit disclosure of Confidential Information or Sensitive
5 Confidential Information to the minimum number of persons necessary to conduct
6 this action or to maintain the security of the ticketmaster.com website.

7 17. **Access to Additional Person(s).** To the extent a Party decides
8 that in order to understand or evaluate any Confidential Information the assistance
9 of person(s) not otherwise entitled to access to Confidential Information is
10 necessary, that party may request permission of the Designating Party to show such
11 information to the specifically identified additional person(s). The Party receiving
12 the request shall respond promptly and shall not unreasonably withhold consent. If
13 permission is granted, the Confidential Information may be shown to the additional
14 person(s), subject to the requirement that such person(s) agree to be bound by the
15 terms of this Order and Agreement. Any disclosure of Confidential Information
16 under this paragraph shall not result in a waiver or termination of any of the rights
17 and obligations to any other Party or person under this Order. If permission is
18 denied, the requesting Party may, in accordance with Local Rule 79-5.1, submit for
19 filing *in camera* and under seal an application with the Court referencing the
20 Confidential Information to be disclosed and, where appropriate, stating with
21 particularity the reason or reasons assistance is needed, and naming the person to
22 whom the Confidential Information is to be disclosed to obtain assistance.

23 18. **Challenges to Confidential Designation or to Redactions in**
24 **Discovery Materials.** In the event the recipient party disagrees with any
25 designation of confidentiality or with the redaction of any information in Discovery
26 Material, the Parties shall attempt to resolve such dispute on an informal basis. If
27 the dispute is not resolved informally, the recipient party, may contest the
28 confidential designation or redaction in accordance with the procedures set forth in

1 Local Rules 37-1 through 37-4. Pending resolution of the matter, the disputed
2 material will continue to be treated as designated (*i.e.*, either Confidential or
3 Sensitive Confidential). If the Court determines that any materials are not entitled
4 to confidential treatment, confidentiality will nonetheless be maintained for fifteen
5 (15) days subsequent to the Court's decision unless the Court, upon motion and for
6 good reason shown, shall reduce or lengthen the time. If the Court determines that
7 any materials are not entitled to redaction, the producing party shall disclose the
8 redacted information within fifteen (15) days subsequent to the Court's decision
9 unless the Court, upon motion and for good reason shown, shall reduce or lengthen
10 the time.

11 19. **Declassification.** The restrictions on disclosure and use of
12 Confidential Information or Sensitive Confidential Information set forth herein
13 shall not continue to apply to information, which, at the time of disclosure, or
14 thereafter, becomes a part of the public domain by publication or otherwise, other
15 than a result of a wrongful act or failure to act on the part of the Party claiming this
16 exclusion. However, the restrictions shall continue to apply if such publication or
17 other disclosure results from criminal, tortious or otherwise unlawful acts or
18 omissions. A Party seeking to declassify material designated as Confidential
19 Information may, in accordance with the provisions of Local Rule 37-1 through
20 37-4 seek from the Court a ruling that the material is not entitled to such status and
21 protection.

22 20. **Right to Assert Other Objections.** This Order shall not be
23 construed as requiring any Party to produce information or documents which are
24 privileged or otherwise protected from discovery by the Federal Rules of Civil
25 Procedure. Nothing herein shall be construed or applied to affect the rights of any
26 Party to discovery or to assert any privilege or objection, or to prohibit any Party
27 from seeking such further provisions or relief as it deems necessary or desirable
28 regarding this Order or the matter of confidentiality.

1 21. **Use During Trial.** This Order is intended to govern the
2 exchange and use of materials, information and Documents during discovery, trial
3 preparation, and post-trial proceedings. Questions regarding the use of Confidential
4 Information or Sensitive Confidential Information during the trial of this action, if
5 any, will be addressed by the Court at a later time prior to or during trial.

6 22. **Subpoena or Order.** If a Party is served with a subpoena or an
7 order issued in other litigation that would compel disclosure of any information or
8 items designated in this action as Confidential or Sensitive Confidential, counsel for
9 the receiving party must so notify counsel for the Designating Party in writing
10 immediately, and in no event more than five court days after receiving the subpoena
11 or order. Counsel for the receiving party also must inform in writing the party who
12 caused the subpoena or order to issue in the other litigation that some or all the
13 material covered by the subpoena or order is the subject of this Order.

14 The purpose of imposing these duties is to alert the interested parties to
15 the existence of this Order and to afford the Designating Party in this case an
16 opportunity to try to protect its confidentiality interests in the court from which the
17 subpoena or order issued. Nothing in these provisions should be construed as
18 authorizing or encouraging a receiving party in this action to disobey a lawful
19 directive from another court.

20 23. **Inadvertent Production.** If a Party through inadvertence
21 produces or provides discovery that it believes is subject to a claim of attorney-
22 client privilege, common interest privilege, or work product immunity, the
23 producing party may give written notice to the receiving party that the Document is
24 subject to a claim of attorney-client privilege, common interest privilege, or work
25 product immunity and request that the Document be returned to the producing
26 party. The receiving party shall immediately return to the producing party all
27 copies of such Document and shall return or destroy all excerpts and summaries
28 thereof. Return of the document by the receiving party shall not constitute an

admission or concession, or permit any inference, that the returned Document is, in fact, properly subject to a claim of attorney-client privilege, common interest privilege or work product immunity, nor shall it foreclose the receiving party from moving for an order that such Document has been improperly designated as subject to a claim of attorney-client privilege, common interest privilege, or work product immunity or should be produced for reasons other than a waiver caused merely by the inadvertent production. The inadvertent disclosure of any privileged documents shall not be deemed a waiver of that privilege as to any other Documents, testimony or evidence.

24. **Enforcement.** This Order and Agreement may be enforced by an order of specific performance, as well as any claim for damages. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

AGREED TO BY:

/s/ Donald R. Brown
Counsel for Plaintiff Ticketmaster L.L.C.

6/26/08
Date

/s/ Caryn Brottman
Counsel for Defendant Thomas J. Prior

6/23/08
Date

SO ORDERED:

DATED this 8th day of July, 2008.

/s/ Jacqueline Chooljian

U.S. MAGISTRATE JUDGE

EXHIBIT A

ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND

I, _____[print or type full name], of
_____[print or type full address],
declare under penalty of perjury that I have read and understand the Stipulated
Protective Order that was entered by the United States District Court for the Central
District of California in the case of *Ticketmaster, L.L.C. v. Thomas Prior*, Case No.
CV 07-2535 ABC (JCx). I agree to comply with and to be bound by all the terms
of this Stipulated Protective Order and I understand and acknowledge that failure to
comply could expose me to sanctions and punishment in the nature of contempt. I
solemnly promise that I will not disclose in any manner any information or item
that is subject to this Stipulated Protective Order to any person or entity except in
strict compliance with the provisions of this Order. I further agree to submit to the
jurisdiction of the United States District Court for the Central District of California
for the purpose of enforcing the terms of this Stipulated Protective Order, even if
such enforcement proceedings occur after termination of this action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____